

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

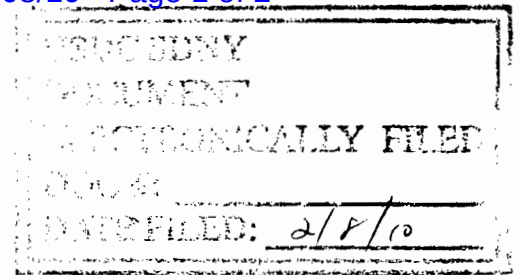
WILLIE BROWN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.



04 Cr. 113 (RO)
08 Civ. 8804 (RO)

ORDER

OWEN, District Judge:

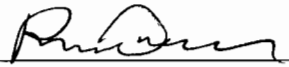
Pro se Petitioner previously filed a habeas corpus Petition pursuant to 28 U.S.C. § 2255, which Magistrate Judge Peck denied pursuant to 28 U.S.C. § 636(c). Petitioner now moves for the Court to resentence him pursuant to 18 U.S.C. § 3585(b), arguing that the Bureau of Prisons (“BOP”) failed to grant him credit for time he spent in detention before his sentencing. The Court does not have jurisdiction over this Motion, however, because Petitioner has failed to exhaust the available administrative remedies. *See United States v. Whaley*, 148 F.3d 205, 206-07 (2d Cir. 1998); *see also* 28 C.F.R. §§ 542.10-542.16 (providing prisoners with administrative review of issues relating to their confinement).

The Court also lacks jurisdiction for another reason. Petitioner’s Motion is properly brought pursuant to 28 U.S.C. § 2241. *See Chambers v. United States*, 106 F.3d 472, 474-75 (2d Cir. 1997) (stating that § 2241 is the proper vehicle for a challenge under 18 U.S.C. § 3585 to the BOP’s calculation of a sentence, and § 2255 is the proper vehicle for a challenge to the legality of the imposition of a sentence). Because the Court lacks

jurisdiction over Petitioner's custodian in Pennsylvania, however, it cannot grant relief under § 2241. *See Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 495 (1973). Accordingly, Petitioner's Motion is DENIED.

SO ORDERED.

February 8, 2010
~~January 2009~~



RICHARD OWEN
UNITED STATES DISTRICT JUDGE